

RETURN DATE: NOVEMBER 29, 2016

SUPERIOR COURT

BOY DOE PPA MOTHER DOE
AND FATHER DOE,
MOTHER DOE, INDIVIDUALLY AND
FATHER DOE, INDIVIDUALLY

JUDICIAL DISTRICT OF
STAMFORD/NORWALK

v.

AT STAMFORD

WILTON BOARD OF EDUCATION
AND TOWN OF WILTON

OCTOBER 14, 2016

COMPLAINT

COUNT ONE: **(Boy Doe, as to defendant Wilton Board of Education)**

1. Prior to bringing this action, plaintiff Boy Doe PPA Mother Doe and Father Doe (the "plaintiff") sought and obtained an Ex-Parte Order pursuant to Practice Book § 11-20A(h)(2) from the Superior Court of Connecticut, Judicial District of Stamford/Norwalk at Stamford, granting permission for the use of the pseudonyms "Boy Doe," "Mother Doe" and "Father Doe," for the purposes of serving, filing and pursuing the present action.

2. At all times relevant to plaintiff's claims in this complaint, Boy Doe was a minor resident of the State of Connecticut who lived in Wilton, Connecticut.

3. During 2013 winter/spring school semester and the 2013-14 school year, Boy Doe was four and five-years-old, fully toilet-trained and a preschool student at the Miller-Driscoll

School ("Miller-Driscoll"), a public school in Wilton, Connecticut. Miller-Driscoll provided public education and educational services for Wilton residents in preschool through second grade.

4. At all relevant times, defendant Wilton Board of Education ("WBOE") was legally responsible for any acts and omissions of its agents, employees and/or the staff working at Miller-Driscoll that affected the safety and well-being of Miller-Driscoll students, including Boy Doe.

5. At all times relevant to plaintiff's claims, Eric Von Kohorn ("Von Kohorn"), a resident of Bridgeport, Connecticut, was employed by the WBOE as a school paraprofessional working with preschool students at Miller-Driscoll.

6. At all times relevant in this Complaint, employees and representatives of the WBOE referred to in this Complaint, including the Director of Miller-Driscoll, Dr. Fred Rapczynski, other staff working in Miller-Driscoll (the "Miller-Driscoll staff") and staff working in the WBOE Human Resources department were employees or agents of WBOE, acting in the scope of their employment or agency with WBOE and in furtherance of the interests of WBOE.

7. In early January 2013, Dr. Rapczynski, received reports of disturbing conduct by Von Kohorn, relating to his interactions with a female Miller-Driscoll preschool student.

8. More specifically, the student's parents informed Dr. Rapczynski in early January 2013 that their daughter, a 4-year-old female Miller-Driscoll preschool student reported that Von

Kohorn: (1) had taken her alone into a deserted Miller-Driscoll school bathroom (in direct violation of existing Miller-Driscoll school policies); (2) had inappropriately sexually assaulted her by forcefully wiping her after she went to the bathroom, although she was completely toilet trained and did not require assistance toileting; (3) had caused her visible physical injuries and irritation to her genital area, which was seen by her parents.

9. At the time, Dr. Rapczynski knew that the WBOE and Miller-Driscoll had strict policies designed to protect students and to prevent sexual abuse of Miller-Driscoll students, and that those written policies strictly prohibited Von Kohorn from taking female preschool students into the bathroom alone and unaccompanied by others.

10. In response to the reports by the female preschool student's parents, Dr. Rapczynski in January 2013 informed Von Kohorn of the child's allegations and twice interviewed Von Kohorn.

11. During the first of these two interviews, Von Kohorn denied ever taking the female student into the bathroom.

12. During the second interview, Von Kohorn admitted he had lied during the first interview, and admitted he had taken the female student alone into the bathroom.

13. In January 2013, Dr. Rapczynski reported the student's allegations, as well as the substance of his two interviews with Von Kohorn and the fact Von Kohorn had eventually admitted to having taken a female preschool student alone into the Miller-Driscoll bathroom, to

staff in the WBOE Human Resources department and at least one other Miller-Driscoll staff member.

14. As a result, in January 2013, Dr. Rapczynski, other Miller-Driscoll staff and the WBOE Human Resources department knew that: (1) a female preschool student at Miller-Driscoll who was fully toilet-trained and did not require any assistance toileting had reported that Von Kohorn had sexually assaulted her in the Miller-Driscoll bathroom; (2) the same student's parents reported seeing physical injuries evidencing such an assault; (3) Von Kohorn initially denied ever taking the girl alone into the bathroom; (4) Von Kohorn's denial was a lie; (4) Von Kohorn eventually admitted he had taken the fully toilet-trained female student alone into the Miller-Driscoll bathroom, in direct violation of WBOE policies designed to prevent sexual abuse of students.

15. Despite this knowledge, Dr. Rapczynski, the WBOE Human Resources department and other representatives of the WBOE negligently failed to take any other steps to investigate whether Von Kohorn had sexually assaulted the female student and never reached any conclusion one way or another about whether Von Kohorn had sexually assaulted the student.

16. Dr. Rapczynski reported the incidents to the Department of Child and Family Services ("DCF"), including the fact that his own investigation "did not support the girl's claims." DCF informed Dr. Rapczynski within a few days of his reports that, based on the

contents of Dr. Rapczynski's reports; DCF would not be performing its own investigation of the allegations. As a result, Dr. Rapczynski and the WBOE knew that there was no DCF investigation into the allegations of child sexual abuse of the female Miller-Driscoll student by Von Kohorn.

17. Dr. Rapczynski, the WBOE Human Resources department and/or other WBOE staff breached their nondiscretionary obligations when they:

- a) failed to further investigate whether Von Kohorn had sexually assaulted the female preschool student in January 2013, after learning of the report of sexual assault and before placing Von Kohorn in contact with other students.
- b) failed to ever reach a conclusion regarding whether Von Kohorn had sexually assaulted the female preschool student before placing Von Kohorn in contact with other students;
- c) failed to take proper steps to prevent Von Kohorn's continued access to and daily work with Miller-Driscoll preschool students;
- d) failed to evaluate whether Von Kohorn posed a threat to students after learning of the report of sexual assault, before allowing him contact with students.
- e) failed to terminate, suspend or otherwise discipline Von Kohorn;
- f) failed to increase the level of supervision of Von Kohorn;

- g) failed to properly investigate Von Kohorn's qualifications and eligibility to work with preschool students;
- h) failed to further investigate the nature of Von Kohorn's contact with preschool students;
- i) failed to inform parents of Miller-Driscoll students of the report of Von Kohorn's sexual abuse of the female student in the bathroom.

18. Instead, Dr. Rapczynski, the WBOE Human Resources department and/or other WBOE staff reassigned Von Kohorn to a different classroom, where they knew he would continue working closely with other Miller-Driscoll preschool students, but would temporarily no longer have regular classroom contact with the female student who had reported Von Kohorn had sexually assaulted her.

19. As a result, although WBOE did no further investigation and did not reach a conclusion about whether Von Kohorn had sexually assaulted the female pre-school student, Von Kohorn remained employed by WBOE as a preschool paraprofessional working closely with preschool students during the 2013 winter/spring semester and the 2013-14 school year.

20. Boy Doe was a preschool student in the class where Dr. Rapczynski and the WBOE reassigned Von Kohorn in January 2013, after Dr. Rapczynski and the WBOE learned of Girl Doe's reports of sexual abuse.

21. Miller-Driscoll staff members, authorized agents and/or employees, including Dr. Rapczynski, staff in the WBOE Human Resources department and other WBOE staff, knew or

should have known that Boy Doe, a Miller-Driscoll preschool student in the classroom where Von Kohorn was reassigned in January 2013, was an identifiable victim who faced the threat of imminent harm from contact with Von Kohorn and who was reasonably calculated to sustain serious injury if Von Kohorn was allowed to have contact him in Miller-Driscoll.

22. Nonetheless, Miller-Driscoll staff members, authorized agents and/or employees, including Dr. Rapczynski, staff in the WBOE Human Resources department and other WBOE staff, negligently placed Boy Doe under the threat of imminent harm by assigning Von Kohorn to a position that would cause him to have direct contact with Boy Doe, thus subjecting the identifiable victim, Boy Doe, to the threat of imminent harm.

23. Starting in January 2013 and during the rest of the 2013 winter/spring semester and the following 2013-14 school year, Boy Doe attended Miller-Driscoll school and had frequent contact with Von Kohorn at Miller-Driscoll.

24. Although Boy Doe was fully toilet-trained, Von Kohorn regularly took Boy Doe alone into the Miller-Driscoll school bathrooms, and was negligently permitted to do so by other Miller-Driscoll employees and authorized agents, in violation of their nondiscretionary obligation to prevent him from doing so.

25. By permitting Von Kohorn to work closely with Boy Doe and take Boy Doe alone into the school bathrooms, Miller-Driscoll staff members negligently placed Boy Doe, an identifiable victim, under the threat of imminent harm, in situations that were reasonably calculated to cause Boy Doe serious injury.

26. During the 2013 winter/spring semester and/or the 2013-14 school year, when he took Boy Doe alone into the Miller-Driscoll bathroom, Von Kohorn sexually exploited and injured Boy Doe by taking digital images of Boy Doe while his pants were down in the bathroom with the intent to use these images for personal gratification and/or distribution to other collectors of child pornography.

27. As a result of the negligence of WBOE and Miller-Driscoll staff members, authorized agents and/or employees as outlined above, Boy Doe suffered serious and permanent damages, as well as extensive permanent emotional and psychological injuries arising directly from the digital exploitation he suffered.

28. As a further result of the negligence of WBOE and Miller-Driscoll staff members, authorized agents and/or employees as outlined above, Boy Doe has suffered and will continue to suffer significant loss in the enjoyment of his life's activities.

29. As a further result of the negligence of WBOE and Miller-Driscoll staff members, authorized agents and/or employees as outlined above, Boy Doe has suffered and will continue to suffer Post Traumatic Stress Disorder, loss of self-esteem, learning difficulties, sleep disturbances, fear and anxiety, adverse behavioral changes, learning difficulties and disabilities, disruption in his interactions and relationships with other people and negative changes in the way plaintiff functions and will function in the world.

30. As a further result of the negligence of WBOE and Miller-Driscoll staff members, authorized agents and/or employees as outlined above, plaintiff has and will suffer economic losses for costs of treatment over the course of his lifetime.

COUNT TWO: (Boy Doe, as to defendant Town of Wilton)

1 – 30. Paragraphs 1- 30 of Count One are here incorporated and made paragraphs 1- 30 of this Count Two.

31. At all relevant times, the WBOE, by and through the acts and omissions of staff members, authorized agents and/or employees working at Miller-Driscoll, functioned as an arm or agency of defendant Town of Wilton.

32. The Town of Wilton is legally responsible for any damages assessed against the WBOE as a result of the injuries suffered by Boy Doe.

COUNT THREE: (Mother Doe, as to defendant Wilton Board of Education)

1-30. Paragraphs 1-30 of Count One are here incorporated and made paragraphs 1-30 of this Count Three.

31. WBOE had a nondiscretionary obligation to remove Von Kohorn from having contact with preschool students at Miller-Driscoll and breached its obligation by failing to do so.

32. Mother Doe was an identifiable victim and WBOE placed her under the threat of imminent harm, in a situation reasonably calculated to cause her serious injury, when it assigned Von Kohorn to her son, Boy Doe's, classroom under the circumstances outlined above.

33. Mother Doe has suffered emotional injury from knowing she allowed Boy Doe to be with Von Kohorn and failing to recognize that Boy Doe was victimized by Von Kohorn, as a result of Dr. Rapczynski and others at WBOE's conduct, as outlined above. Mother Doe's injuries also have resulted in additional injury to Boy Doe.

34. Dr. Rapczynski and WBOE's conduct as outlined above created an unreasonable risk of causing Mother Doe emotional distress.

35. Mother Doe's distress was a foreseeable consequence of Dr. Rapczynski and WBOE's conduct, as outlined above.

36. Mother Doe's emotional distress was severe enough that it has resulted in injury or bodily harm to Mother Doe.

37. Dr. Rapczynski and WBOE's conduct was the cause of Mother Doe's distress.

COUNT FOUR: (Mother Doe, as to defendant Town of Wilton)

1-37. Paragraphs 1-37 of Count Three are here incorporated and made paragraphs 1-37 of this Count Four.

38. At all relevant times, the WBOE, by and through the acts and omissions of staff members, authorized agents and/or employees working at Miller-Driscoll, functioned as an arm or agency of defendant Town of Wilton.

39. The Town of Wilton is legally responsible for any damages assessed against the WBOE as a result of the injuries suffered by Mother Doe.

COUNT FIVE: **(Father Doe, as to defendant Wilton Board of Education)**

1-30. Paragraphs 1-30 of Count One are here incorporated and made paragraphs 1-30 of this Count Three.

31. WBOE had a nondiscretionary obligation to remove Von Kohorn from contact with preschool students at Miller-Driscoll and breached its obligation by failing to do so.

32. Father Doe was an identifiable victim and WBOE placed him under the threat of imminent harm, in a situation reasonably calculated to cause him serious injury, when it assigned Von Kohorn to Boy Doe's classroom under the circumstances outlined above.

33. Father Doe has suffered emotional injury from knowing he allowed Boy Doe to be exposed to Von Kohorn and failing to recognize that Boy Doe was victimized by Von Kohorn, as a result of the conduct of Dr. Rapczynski and other WBOE staff, as outlined above. Father Doe's injuries also have resulted in additional injury to Girl Doe.

34. Dr. Rapczynski and WBOE's conduct as outlined above created an unreasonable risk of causing Father Doe emotional distress.

35. Father Doe's distress was a foreseeable consequence of Dr. Rapczynski and WBOE's conduct, as outlined above.

36. Father Doe's emotional distress was severe enough that it has resulted in injury or bodily harm to Father Doe.

37. Dr. Rapczynski and WBOE's conduct was the cause of Father Doe's distress.

COUNT SIX: (Father Doe, as to defendant Town of Wilton)

1-37. Paragraphs 1-37 of Count Five are here incorporated and made paragraphs 1-37 of this Count Six.

38. At all relevant times, the WBOE, by and through the acts and omissions of staff members, authorized agents and/or employees working at Miller-Driscoll, functioned as an arm or agency of defendant Town of Wilton.

39. The Town of Wilton is legally responsible for any damages assessed against the WBOE as a result of the injuries suffered by Father Doe.

PLAINTIFFS, BOY DOE PPA MOTHER DOE
AND FATHER DOE, MOTHER DOE,
INDIVIDUALLY AND FATHER DOE,
INDIVIDUALLY

BY  

PAUL A. SLAGER
MICHAEL R. KENNEDY
SILVER GOLUB & TEITELL LLP
184 ATLANTIC STREET
STAMFORD, CONNECTICUT 06901
(203) 325-4491
JURIS # 58005

PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray for relief from the defendant in the form of compensatory damages in excess of the jurisdictional minimum of \$15,000.00, exclusive of interest and costs, as well as any other relief the court or fact finder deems just and proper.

PLAINTIFFS, BOY DOE PPA MOTHER DOE
AND FATHER DOE, MOTHER DOE,
INDIVIDUALLY AND FATHER DOE,
INDIVIDUALLY

BY 

PAUL A. SLAGER
SILVER GOLUB & TEITELL LLP
184 ATLANTIC STREET
P.O. BOX 389
STAMFORD, CONNECTICUT 06904
(203) 325-4491
JURIS # 58005

EXHIBIT 2